

ORDINANCE NO. 46-612

AN ORDINANCE AMENDING SECTIONS 5.88.010, 5.88.020, 5.88.030, AND 5.89.020 OF THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO FIREARMS, SALES PERMITS AND DEALER LICENSES AND REPEALING THE ORIGINALS OF SECTIONS 3.08.050, 5.88.010, 5.88.015, 5.88.020, 5.89.030, 5.89.020, 5.89.030, AND 5.89.100 OF THE CODE OF THE CITY OF WICHITA, KANSAS.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. 5.88.010 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

“Unlawful use of weapons. (1) Unlawful use of a weapon is knowingly:

(a) Selling, manufacturing, purchasing, possessing or carrying any bludgeon, sandclub, metal knuckles or throwing star, or any knife, commonly referred to as a switch-blade, which, having the appearance of a pocket knife, also has a blade that opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife, or by other mechanical contrivance, or any knife having a blade that opens or falls or is ejected into position by the force of gravity or by an outward, downward or centrifugal thrust or movement;

(b) Carrying concealed on one's person, or possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slingshot, nightstick, nun-chucks, sap gloves, tomahawk,

dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument;

(c) Carrying unconcealed on one's person or in any vehicle under one's immediate control, with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slingshot, nightstick, nunchucks, sap gloves, tomahawk, dangerous knife, straight-edged razor, stiletto or any other dangerous or deadly instrument of like character, except that an ordinary pocket knife with no blade more than four inches in length shall not be construed to be a dangerous knife or a dangerous or deadly weapon or instrument;

(d) Carrying any pistol, revolver or other firearm concealed on one's person except when on one's land or in one's abode or fixed place of business;

(e) Carrying on one's person any unconcealed, loaded firearm, except when on one's land or in one's abode or fixed place of business;

(f) Carrying in any vehicle under one's immediate control, any loaded firearm, except when on one's land or in one's abode or fixed place of business;

(g) Carrying in any air, land, or water vehicle an unloaded firearm that is not encased in a container which completely encloses the firearm;

(h) Carrying a loaded or unloaded firearm in a courtroom or within City Hall.

(i) Drawing a pistol, revolver, knife or any other deadly weapon upon any person.

(j) As used in this section, “throwing star” means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond or other geometric shape, manufactured for use as a weapon for throwing.

(2) Subsections (1)(a), (b), (c), (d), (e), (f) (g), (h) and (i) shall not apply to or affect any of the following:

(a) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;

(b) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;

(c) Members of the armed services or reserve forces of the United States or the Kansas National Guard while in the performance of their official duty; or

(d) Manufacture of, transportation to, or sale of weapons to a person authorized under (a) through (c) of this subsection to possess such weapons.

(e) Qualified law enforcement officers or qualified retired law enforcement officers pursuant to the Law Enforcement Officers Safety Act of 2004, 18 U.S.C. 926B and 18 U.S.C. 926C and amendments thereto.

(3) Subsection (1)(d), (e) and (f) shall not apply to or affect the following:

(a) Watchmen, while actually engaged in the performance of the duties of their employment;

(b) Private detectives licensed by the state to carry the firearm involved while actually engaged in the duties of their employment;

(c) Detectives or special agents regularly employed by railroad companies or other corporations to perform full-time security or investigative service, while actually engaged in the duties of their employment; or

(d) The State Fire Marshal, the State Fire Marshal's deputies or any member of a fire department authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto, while engaged in an investigation in which such fire marshal, deputy or member is authorized to carry a firearm pursuant to K.S.A. 31-157 and amendments thereto.

(e) Special deputy sheriffs described in K.S.A. 2001 Supp. 19-827, and amendments thereto, who have satisfactorily completed the basic course of instruction required for permanent appointment as a part-time law enforcement officer under K.S.A. 74-5607a and amendments thereto.

(4) Subsection (1) (i) shall not apply to or affect historical reenactors and actors when engaged in performances and demonstrations. Provided, however, this subsection shall only apply to those performances and demonstrations which have been approved in advance in writing by the city manager or his designee.

(5) Subsection (1)(a) shall not apply to any person who sells, purchases, possesses or carries a firearm, device or attachment which has been rendered

unserviceable by steel weld in the chamber and marriage weld of the barrel to the receiver and which has been registered in the national firearms registration and transfer record in compliance with 26 U.S.C. 5841 et seq. in the name of such person and, if such person transfers such firearm, device or attachment to another person, has been so registered in the transferee's name by the transferor.

(6) It shall be an affirmative defense that the defendant is within an exemption.

(7) Any person who violates any of the provisions of this section within the corporate limits of the city shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed twenty-five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

(8) In addition to the penalty for violation of any of the provisions of this section, it shall be the duty of the municipal court judge:

(a) To order any weapon seized in connection with such violation which is not a firearm to be forfeited to the city and the same shall be destroyed or caused to be destroyed by the chief of police whenever the weapon is no longer needed for evidence;

(b) To order any weapon seized in connection with such violation which is a firearm, when no longer needed for evidentiary purposes, shall, in the discretion of the trial court, be:

(i) destroyed;

(ii) forfeited to the Wichita police department for use within the police department, for sale to a properly licensed federal firearms dealer or for trading to a properly licensed federal

firearms dealer by the police department for other new or used firearms or accessories for the police department's use; or

(iii) Forfeited to the Kansas Bureau of Investigation for law enforcement, testing, comparison or destruction by the Kansas Bureau of Investigation forensic laboratory.

If weapons are sold as authorized above, the proceeds from any such sale shall be credited to the asset seizure and forfeiture fund of the Wichita police department. All transactions involving weapons disposed of under this subsection must have the prior approval of the city manager. All sales of weapons are subject to review by the city council;

(c) Any stolen weapon confiscated in connection with any violation of this section shall be returned to the person entitled to possession, if known, when the same is no longer needed for evidence. All other weapons shall be disposed of as provided in subsections (a) and (b) above.

SECTION 2. Section 5.88.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Unlawful discharge of a firearm, air rifles, pellet guns and BB guns.

(1) It is unlawful for any person to discharge or fire any gun, pistol, air rifle, pellet gun, BB gun or any other firearm within the corporate limits of the city except at any properly licensed shooting gallery or upon a pistol range or at a gun club, either of which shall be approved by the chief of police.

(2) This section shall not apply to law enforcement officers while actually engaged in the performance of such officer's duty.

(3) This section shall not apply to health officers while actually engaged in the performance of such officers duty.

(4) This section shall not apply to historical reenactors and actors when engaged in performances and demonstrations when the powder charge does not exceed thirty grains for pistols, sixty-five grains for long guns and one-quarter pound for cannon, and the gun contains no projectile other than the minimum amount of wadding necessary to hold the powder charge in place. Provided, however, this subsection shall only apply to those performances and demonstrations which have been approved in advance in writing by the city manager or the city managers designee.

(5) Any person who violates any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

(6) In addition to the penalty for the violation of this section, it shall be the duty of the municipal court judge to order any weapon seized in connection with such violation to be forfeited to the city and the same shall be disposed of by the chief of police pursuant to Section 5.88.010(8).”

SECTION 3. Section 5.88.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

Air rifles, pellet guns and BB guns--Carrying within the city.

(1) It is unlawful for any person to carry an air rifle, pellet gun or BB gun on the streets, alleys or public places within the corporate limits of the city unless the air rifle, pellet gun or BB gun is dismantled or in a scabbard.

(2) Any person who violates any of the provisions of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed five hundred dollars or by imprisonment for not more than one year, or by both such fine and imprisonment.

(3) In addition to the penalty for the violation of this section, the municipal court judge may, in his or her discretion, order such air rifle, pellet gun or BB gun forfeited to the city and disposed of pursuant to subsection 5.88.010 (8).”

SECTION 4. Section 5.89.020 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Possession of a firearm by a minor prohibited--Exceptions.

(a) Unless otherwise specifically provided herein, it shall be unlawful for a minor to possess any firearm within the city of Wichita, except when the minor is in the presence of and under the direct supervision of a parent, stepparent, grandparent, stepgrandparent, or legal guardian.

(b) Any minor who is not in the presence of and under the direct supervision of his or her parent, stepparent, grandparent, stepgrandparent, or legal guardian may only possess a firearm in the city of Wichita under the following circumstances:

1. During a hunter education class held pursuant to K.S.A. 32-920 and conducted by a Kansas hunter education instructor who is certified by the Kansas Department of Wildlife and Parks, provided said possession is under the supervision of the instructor;

2. During a firearms instructional or safety training class taught by an instructor certified by the National Rifle Association or other

nationally recognized hunting, target or sports shooting organization, provided said possession is under the supervision of the instructor;

3. While transporting an unloaded firearm to and from an excursion for lawful hunting of game birds or animals, provided:

(a) The minor is in possession of a valid hunting license, if said license is required by state or federal law for the purposes of the hunting excursion;

(b) The minor is in possession of a valid hunter education certificate issued to said minor;

(c) The firearm, during transportation, is unloaded and is stored in a case, scabbard, or other container which completely encloses the firearm.”

SECTION 5. Section 5.89.030 of the Code of the City of Wichita, Kansas, is hereby amended to read as follows:

"Forfeiture of firearms possessed by a minor. Except as provided in Section 5.89.040, any firearm seized in connection with a violation of this chapter shall be disposed of pursuant to Section 5.88.010(8)(a) and (b) of the Code of the City of Wichita.”

SECTION 6. The originals of Sections 5.88.010, 5.88.015, 5.88.020, 5.88.030, 5.89.020, 5.89.030, 5.89.100, and 3.08.050 of the Code of the City of Wichita, Kansas, are hereby repealed.

SECTION 7. This ordinance shall be included in the Code of the City of Wichita, Kansas, and shall be effective upon its passage and publication once in the official city paper.

PASSED by the governing body of the City of Wichita, Kansas, this 28TH day of June,
2005.

Carlos Mayans, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary Rebenstorf
Director of Law